

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 7234 of 2017**

Sanjay @ Shailendra Sahu, S/o. Late Pardeshi Ram Sahu, Aged About 25 Years, R/o. Jai Hind Chowk, Ram Nagar, Post Office Raipur, Police Station-Gudhuyari, Raipur, District -Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station-Kharora, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Shivendu Pandya, Advocate

For Respondent/State : Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**14/12/2017**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.7/2017, registered at Police Station – Kharora, District – Raipur (C.G.) for the offence punishable under Section 363, 366, 376 of the Indian Penal Code and Section 3/4 of the Protection of Children from Sexual Offences Act, 2012 (as per charge sheet) and as per charges framed under Section 363, 366, 376 (2) (n) of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. It is submitted by the learned counsel for the applicant that applicant has been falsely implicated in this case. It is submitted that the age of the prosecutrix is above 18 years. Further the applicant and the prosecutrix had love affair, because of which, the applicant and the prosecutrix have performed marriage in temple, thereafter, they had physical relationship. The prosecutrix has further given such statement in favour of the applicant under Section 164 of Cr.P.C., before the Judicial Magistrate First Class and she has also made a complaint against her father regarding falsely implicating the applicant. It is prayed that the applicant is in jail since 25.05.2017, he may be enlarged on regular bail.
3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the age of the prosecutrix had been 17 years and six months on the date of incident, hence any consent given by her is immaterial and offence is clearly made out against the applicant, because of which, he is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. The facts of the case are these that the brother of the prosecutrix had lodged FIR against the applicant that the applicant enticed and abducted his minor sister and thereafter had physical relations with her, which amounts to offence of rape. On this basis, the offence has been registered against the applicant.
6. Considering the submissions made and the contents of the case diary and particularly considering the statement of the prosecutrix recorded

under Section 164 of Cr.P.C., this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge